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In re Application of	:	
WILJAN et al.	:	
Application No.: 09/720,879	:	DECISION
PCT No.: PCT/EP99/03853	:	
Int. Filing Date: 02 June 1999	:	
Priority Date: 02 July 1998	:	
Attorney Docket No.: Q62284	:	
For: COARSE DIRT COLLECTOR FOR REMOVING	:	
COARSE MATERIAL FROM A PULPER AND	:	
CORRESPONDING METHOD	:	

This decision is in response to applicants' "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed in the United States Patent and Trademark Office (USPTO) on 05 August 2004 and 10 August 2004.

#### BACKGROUND

On 02 June 1999, applicant filed international application PCT/EP99/03853, which claimed a priority date of 02 July 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed prior to nineteen months from the filing date of the international application. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 02 January 2001.

On 02 January 2001, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 25 January 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a one-month extendable time period.

On 24 February 2004, the DO/EO/US mailed a NOTICE OF ABANDONMENT indicating that the application was abandoned as to the United States of America for failure to properly respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 January 2001 within the time period set therein.

On 05 August 2004, applicants submitted a "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)".

On 10 August 2004, applicants submitted a second "PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)", which included, *inter alia*, a postcard receipt date-stamped by the USPTO, a copy of a declaration of inventors, a copy of a petition for a one-month extension of time, and a copy of two cashed checks.

### DISCUSSION

Applicant has provided sufficient evidence to establish that on 26 March 2001 applicants filed a declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 26 March 2001 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 10 August 2004 is a copy of the declaration originally filed 26 March 2001. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 10 August 2004 may properly be accepted as originally received in the USPTO on 26 March 2001. Accordingly, the NOTICE OF ABANDONMENT mailed 24 February 2004 is hereby VACATED.

The declaration of inventors filed 26 March 2001 is in compliance 37 CFR 1.497(a)-(b). The surcharge under 37 CFR 1.492(e) has been paid.

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTICE OF ABANDONMENT mailed 26 February 2004 is **VACATED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office

of PCT Operations to continue national stage processing of the application in accordance with this decision.



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